this number, the estimated EBITDA for 2001 against the plan. Also, asked questions surrounding certain adjustments that we had made previously to the estimated 2001, as well as to the five year plan to ascertain the reasonableness of those adjustments, given the current state of the company.

Q Mr. Hurst, I'd now like to ask you some questions about some details of your report, and in particular, on page one of your report, entitled, Introduction. In the second bullet point, there's a reference to a March 19, 2001 presentation. What does that refer to?

A In March 19th, we had our first meeting with the bank group, the senior bank group. What we prepared then is for negotiating purposes. We prepared a presentation to be handed out at that meeting which puts forth for us a starting point of negotiations with the bank group.

Q Okay. Thank you, Mr. Hurst. And did that March 19th document that you just referred to reflect your best estimate as to the value of Genesis at that point in time?

A No, it did not.

Q Okay. And again, what was the purpose of that March 19th document?

A The purpose of the document was again, it was the first meeting with the senior bank group, and so, it was very much a negotiations document where we were putting forth an extreme estimate of value, as well as aggressive assumptions underlying

it, so we went as aggressive as possible as to start the negotiation process.

Q Okay. At that time, in March of 2001, did you personally have a view as to what the value of Genesis on a stand alone basis was at that time?

A Yes, I did.

Q And what was your view?

A My view of Genesis at a stand alone basis in March was approximately a billion three.

Q Okay. I'd like to move on now and ask you a question about the next bullet point on page one. There's a sentence that states that Houlihan's current findings are based upon its due diligence and analysis, et cetera, et cetera. Did Houlihan, in fact, perform due diligence?

A On this report was an update which I've described previously as it relates to the company. We also updated the market information for the companies that we deemed comparable to Genesis.

Q Okay. And did you have any discussions with company personnel?

A Yes. It was -- we had an update discussion with the CFO, George Hager.

Q Okay. In the 15 or so months since May of 2000, how many conversations have you had with George Hager, to your recollection?

A I'm going to estimate over 15, and probably my staff, probably over 30 with his staff.

Q And wasn't Mr. Hager responsive to your inquiries in those conversations?

A Yes, very responsive.

Q Okay. I'd like to direct your attention to the second to the last bullet point on page one, and in particular, the last sentence. There's a statement that reads, "Through the third quarter, the company had EBITDA of 120.3 million, do you see that reference?

A Yes, I do.

Q Okay. What does that refer to?

A That's the EBITDA for the first nine months of fiscal 2001 of 129.

Q Okay. And what's the source for that?

A That's the company financial statements.

Q Okay. And there's a reference later in that sense to an estimate of EBITDA for fiscal year 2001 at $162.0 million. Do you see that?

A Yes, I do.

Q What does that refer to?

A Basically, as I stated before, what we were doing is we were estimating the -- since we were nine months into the year and had an estimate of July on a preli-inary basis, we were trying to arrive at the estimate -- estimated EBITDA for 2001,

and that's what we've indicated here of 162 million.

Q Thank you, Mr. Hurst. Can you turn to the next page, entitled, Overview Consolidated. For the record, that's page two of Committee Exhibit one. Could you just briefly summarize what the purpose of that page is?

A Again, this summarizes what we just talked about, the current year to date EBITDA, where it is against plan and budget, and then the second bullet point indicates how we arrived at the $162 million.

Q Okay. Thank you. And could you turn to page three of your report, entitled, 2001 EBITDA Run Rate. Could you describe to the Court what the purpose of that page is?

A Well, I think as previously been described by certain individuals, what we've done here is we've taken the $162 million estimate EBITDA for 2001, and then made certain adjustments to arrive at what we call it a run rate, some people call it normalize, but this is a run rate number of earnings, and adjusted for things that we found is discussions with the company that might have been a mid-year event that really should have been -- we tried to calendarize it for the full year.

Q Okay. Thank you. Turning to pages five through -- actually, page five of Committee Exhibit one, entitled, Adjusted Five Year Plan Summary. What's the purpose of that page?

A What we're showing here is on the top box on page five, this is the base case or this is the company provided five year plan, and we just highlight some high level numbers, and then what we've indicated on the second box is certain revisions that we've made to the five year plan. We've added, if you will, EBITDA starting at 2002 to 2006.

Q Okay.

A And the basis underlying those additions are included in the following pages.

Q Thank you. You made reference to a company provided five year plan. Did the company, in fact, provide you with a five year plan?

A Yes, they did.

Q Okay. And when did that happen?

A February of 2000.

Q Okay. And what did you do when you received the five year plan?

A When we received the five year plan, we conducted extensive analysis on the plan. We broke it out by business unit. We basically replicated the plan on our own modeling and so that we could run sensitivity. We looked at the plan on a revenue basis, on an expense basis, and a line basis by the expenses.

Q Okay. And did you examine any of the assumptions underlying the plan?

A Yes, we did.
Q We ostensibly analyzed the assumptions, both in terms of the historical context and in terms of the projections, and again, on a line item basis and looked for variations and reasonableness underlying the assumptions.
Q Okay. And just to get a time frame, and I apologize if I've asked this question already, when you -- at what point in time did you receive the five year plan? Was it before the March 2001 meeting with the banks?
A Yes, it was February.
Q Okay. Thank you.
A I'm sorry, it was -- it was -- we received it early on in our engagement in 2001.
Q Okay. Thank you.
A All right.
Q I'd like to ask you a very quick question about what appears on pages six to seven. Could you just summarize for the Court what the purpose of those pages are, base case adjustment?
A Sure. What six and seven do is, again, in analyzing the plan on a very detailed line item basis, and as a matter of fact, we went facility base, these are adjustments that, in looking at the projections, we though were adequate to make that in terms of that might -- that you could reasonably make the adjustments, reasonably make to the five year projections.

Q Okay. Thank you. And just by way of summary, what is the bottom line number of adjustments that are reflected on -- in the aggregate on these two pages?

A In the aggregate and that's represented on page seven, these adjustments total, and you can see it where it says grand total, about $12.7 million we've increased their 2002 EBITDA by.

Q Thank you. Thank you. Turning to page eight of your report, which has been marked as Committee Exhibit one, it's entitled, Comparable Company Analysis, and I would note that there are four companies listed on that page, is that correct?

A Yes, there is.

Q Okay. Are those companies that you consider to be comparable companies to Genesis?

A Yes.

Q Okay. And can you briefly describe to the Court why you selected those particular companies as comparables to Genesis?

A We selected these four companies as comparable because of the nature of their business compared to Genesis. I won't bother going again into Beverly, Manor Care and Kindred, but clearly those are comparable in the nature of their business to the company's long term care business. They also have enough following and enough -- they're traded enough with enough volume to indicate that their market price is reflective of a market price. And the pharmacy -- same with Omnicare.

Omnicare, we thought, was in line with and comparable to the NeighborCare, Institutional Pharmacy aspect of Genesis.

Q Okay. What about HCR Manor Care, how did Genesis compare to that?

A In going through HCR Manor Care, and it's been previously stated and which we agree, HCR Manor Care is clearly the dominant player in the industry. It's always been regarded as one of the best long term care. It's traded as such, and we compare to Manor Care on aspects going down through payor mix and what have you that -- that we're not as strong as Manor Care.

Q Okay. And did have a view as to how the market has historically treated Manor Care in contrast to Genesis?

A Historically, the market has priced Genesis at a discount to Manor Care.

Q Okay. And can you quantify that discount?

A I believe it's been about a 20 percent discount, so that we would be about 80 percent of HCR Manor Care.

Q Okay. Thank you. And very briefly, how does Genesis compare to Beverly?

A Genesis compares -- it's pretty comparative. There's a lot of differences, and again, I won't -- in the interest of time, I won't go through all the things that have already been discussed, but there's -- you know, on that, it's comparable to Beverly.

Q Okay. And now, I'd like to ask you some questions about page ten of your report, entitled, Valuation Analysis. As a preliminary matter, I would just ask, what were the valuation methodology or methodologies that you used in reaching your conclusion?

A In terms of this analysis of the three valuation methodologies which have been discussed, comparable company, discounted cash flow and a transaction approach, we used the comparable company and discounted cash flow. We didn't use the transaction approach because, frankly, lack of information. That there really hasn't been enough transactions in the long term care since basically the changes that have taken place in the market to warrant a meaningful comparison.

Q Okay. Turning to the top portion of that page and the heading, Comparable Company Analysis, I just have a few questions. There's $163.5 million figure, what does that reflect?

A The 163.5 is reflective of the analysis that we went through on the previous page, on page three. That takes the $162 million run rate -- base case, I'm sorry, and then calculates the run rate at 165 and then makes several adjustments to that.

Q Okay. And there's an 8.5 multiple --

A Right.

Q -- that appears right below that. How did you arrive at a

8.5 multiple?

A Now, remembering that what we did is we looked at the run rate for 2001, end of year. We looked at end of year 2001 which we felt comfortable and thought was appropriate where we were in our business, in the company's business in looking at the ten months of information. So, we were looking at 2001 estimated information for both Genesis and the comparable companies.

Based on that, since we were on that representative level of earnings, what we did is we looked at the comparable companies and multiples, and estimated a 2001 basis. That's indicated on page nine, where we show Beverly, HCR, Kindred and Omnicare's enterprise value, based on a 2001 EBITDA.

Based on those numbers, then, and then based on our analysis of both Genesis as they compare to these companies, which again, for brevity, I won't go into, but we've already stated that we believe we're similar to Beverly, similar to Kindred, and would trade at a discount to HCR Manor Care and Omnicare. The eight and a half multiple, then, lines up with those multiples.

Q There's a reference to a discounted cash flow analysis.

A Right.

Q Is there anywhere in the report where that discounted cash flow analysis is reflected?

A What we do is we provided a summary of the discounted cash

flow on page 11.

Q Okay. And I'm not going to ask you many questions about this with one exception. I would like to ask you a question about the terminal multiple --

A Um-hmm.

Q -- that's used, and is the terminal multiple reflected on page 11 of your report?

A Yes, it is. On page 11, if you'll look in the box to the corner right under residual value, you'll see that the terminal value is -- multiple is 7.5.

Q Okay. And how did you arrive at that terminal value multiple?

A I arrived at the terminal value based on looking at the projections, the additions we've made to the projections, the publicly traded companies, where we traded in relation to them, and then how the market is pricing on a go forward basis. So, if we were at an eight and a half on a current basis, given the nature of the company and the projections underlying them, we felt that a 7.5 multiple or 1 point decrease was appropriate for Genesis.

Q Okay. Turning back to page ten, the page on comparable valuation analysis, there's a reference to a concluded enterprise value of $1.375 billion, do you see that?

A Yes, I do.

Q Okay. How did you -- how did you reach that conclusion?

A Based on the comparable company analysis and the discounted cash flow was -- based on those estimates of value, I concluded that the value was 1,375,000,000, which is approximately in the mid-point. It wasn't just simple just taking the mid-point, but I felt comfortable that that was the appropriate concluded value.

Q Okay. I have just have one more question about the valuation analysis that appears on page ten. There's a heading that's entitled, Recovery of Unsecured Creditors Under the Plan.

A Right.

Q Could you explain to the Court what the purpose of that section is?

A What this does is it takes the billion, 375 million, which we calculated as the enterprise value on our conclusion, and we subtract off the debt to arrive at the equity, and again, this is just Genesis on a stand alone, and based on the equity value of 904 million, we apply the five and a quarter percent of the equity that the unsecured creditors are receiving, as well as the valuation of the 8.4 percent of the warrants that they were receiving to arriving at our recovery of 74 -- $75 million.

Q Okay. Now, one other question. In reaching your conclusion regarding the $1.375 billion enterprise valuation, that's a single point valuation, correct?

A Correct.

Q Okay. Why did you use a single point valuation?

A We use a single point valuation in this report for ease of reference to our previous March report. The previous March report, which was basically for presentation purposes for the negotiating with the bank group, for negotiating purposes we do use a point estimate, and for comparability to that report, we kept with the same format.

Q Turning to the final page of your report, page 12, summary of claims, could you briefly describe for the benefit of the Court what that section is?

A Again, we're summarizing the claims. We're getting to the total of the administrative secured debt that's effectively ahead of the unsecured of the billion 454. So, we're looking at that in terms of where the value of Genesis would be in relation to the total claim and how that relates to then what our recovery would be. And this indicated to us that based on those claims and the valuation that we arrived at, gave us an indication of how good our recovery was.

MR. PEES: Your Honor, I'm drawing near the end of my questioning, but lest I forget, at this time I would like to move into evidence Committee Exhibit 1.

THE COURT: Absent objection, we'll consider it evidentiary.

BY MR. PEES:

Q Mr. Hurst, a few wrap up questions. You've made reference

to negotiations with the bank group. Did you personally participate in those negotiations?

A Yes, I did.

Q Okay. Could you describe generally your role in those negotiations?

A From the March 19 meeting on there was myself as well as Eric Seagirt (phonetic), who is the managing director in our restructuring group, but the negotiations started basically on the 19th where we presented what we thought from a negotiating posture was the starting point, and then basically throughout the next month - month and a half was involved in negotiating the settlement that we would seek in terms of our committee.

Q And do you have any knowledge as to whether the committee in fact reached a settlement with the debtors and bank group?

A Yes.

Q Okay. And is that settlement reflected in the Plan of Reorganization to your knowledge?

A Yes, it is.

Q Okay. What's your understanding of the general contours of that settlement?

A As reflected on page 10, then again this is just for Genesis, it's 5-1/4 percent of the equity as well as 8.4 percent of the warrants -- in warrants on Genesis.

Q Okay. And when you're referring to Genesis, you're referring to Genesis on a stand alone basis, is that correct?

A Genesis on a stand alone basis.

Q Okay. Just one additional wrap up question. Going back to the -- your comparable company analysis and your selection of multiples, what sort of health care experience did you draw upon in selecting a multiple? Can you describe that?

A Aside from the fact that I've been exclusively in health care for the past six years, I've done a number of valuations clearly in the long term care. We're currently representing Sun. We represent the Unsecured Creditors Committee in Sun. We represent the Bank Group in MHG. often times referred to as Little Mariner, although we don't like it called that, as well as we represented Advocate which is -- as a debtor which we restructured their bank agreements as well as their -- all of their master leases, and we worked on another publicly traded long term care company recently. And so it was within the basis of what we see going on both on a historical and a projected basis, and the valuations compared to the public companies that we arrived at, frankly, with a good deal of comfort at the 8-1/2.

Q Drawing upon your experience, do you have a view as to whether the recoveries proposed under the plan to the unsecured creditors are fair and reasonable?

A Yes. I believe that the -- that they are fair and reasonable.

MR. PEES: Your Honor, at this time I have no further

questions of Mr. Hurst.

MR. KINZEY: John Kinzey again for GMS.

CROSS-EXAMINATION

BY MR. KINZEY:

Q Good morning, Mr. Hurst.

A Good morning.

Q Mr. Hurst, just so the record is clear, your valuation is of Genesis stand alone without Multicare, correct?

A That's correct. Genesis stand alone.

Q Have you performed any valuations of the two companies combined?

A No, I have not.

Q You mentioned during your testimony a report you prepared in March 19, 2001 for negotiations with the Bank Group. Do you recall what your valuation of Genesis standing alone was in that report?

MR. PEES: Your Honor, objection. I believe that the witnesses has already clearly testified that the document was prepared for negotiation purposes, and under Federal Rule of Evidence 408, that evidence can't be introduced to show the valuation, the liability, damages, etcetera. It's impermissible. So, I would object on that ground.

MR. KINZEY: Your Honor, we're not introducing the information about this report which the witness indicated is cross-referenced to this one for the purposes of establishing

the truth of anything said during settlement discussions. We simply want to compare the methodology he used then to the methodology he used today because we think that bears on his credibility.

THE COURT: Well, there is some concern, some 408 concern. Whether or not it is for the truth, that question concerns us more in the arena of hearsay information rather than settlement discussions. If we were to allow information, and in fact we've reviewed it absent objection in other instances, that's for sure, but where the issue is squarely presented, I think counsel objector is correct in terms of opening up those settlement discussions, unless you can establish a foundation that the March analysis was beyond settlement discussions, that it was some kind of valuation or assessment that was offered as a position of Houlihan Lokey or the like.

At this point I will sustain the objection on the basis of what we have so far.

MR. KINZEY: Your Honor, as I understand Rule 408, it only makes it inadmissible if it's evidence that is presented to prove liability for the invalidity of the claim of the -- or its amount. We're not trying to use this money to -- this to establish the amount of the claim. I really only want to go to the credibility of the witness because the presentation he made in the settlement was so inconsistent with what the approach

he's now using in this one, and at least raise the question as to whether that wasn't a result or any change in where he came out in his number as opposed to one really reflects an adequate -- an accurate review of what's going on in the market.

MR. PEES: Your Honor, may I be heard on that?

THE COURT: Please.

MR. PEES: The question that was posed goes to the heart of what can be described as quote, "The liability or value issue in this case". And I believe Rule 408 of the Federal Rules of Evidence is pretty clear that that's off limits. He's already testified that the document was being used for settlement purposes and there's nothing in the record to establish that it was a document that had any other use than that. So, it's basically taking in effect a starting point in negotiations and then trying to bootstrap on some sort of conclusion from that. So, I think it exceeds the bounds of what's permitted under Rule 408.

THE COURT: Well, I think that it -- you're right to bring the issue closer to an opportunity to admit because the last sentence of Rule 408 provides that the rule does not require exclusion when the evidence is offered for another purpose, that is another purpose besides proving liability for or invalidity of the claim such as proving bias or prejudice of a witness negativing a contention of undue delay or proving an effort to obstruct a criminal investigation or prosecution.

Some of those don't concern us, obviously. And credibility may be akin to bias, if you will.

Suffice is to say that the witness's testimony that indeed -- I will overrule myself, if you will. I'll allow you to pursue this and to hear about the information in March. That consideration of that information will be tempered by the testimony that indeed it was within a settlement negotiating posture. You may proceed.

BY MR. KINZEY:

Q Could you please give me please, Mr. Hurst, the value that you came up with in the March report?

A In the March report, which is really, it's a presentation, it was $1.7 billion.

Q Now, you indicated that the assumptions you made in your testimony this morning in getting that number aggressive, does that mean that you had a basis for them but it was an aggressive basis?

A Extremely. And again, that was a negotiating presentation with the Bank Group. When we did our initial valuation, it was clear to us that there was -- that the value that was coming out could wind up that we would have a 0 percent recovery on the basis of the equity value. Therefore, what we did as in going in the first bank meeting is we took a very aggressive posture and put forth a valuation that the underpinnings of which was extremely aggressive and clearly for negotiating

purposes. That was in no way a valuation. It was in no way a report that was representative as a valuation that I nor Houlihan would represent as an enterprise value for Genesis at that time.

Q And you had no support, for example, for the EBITDA multiple which you used in that presentation, is that correct?

A The EBITDA multiple that was used in that report, there was not a theoretical underpinning for that multiple.

Q Right. And I believe you testified at the deposition that we took in this case that you used 9.5 as the multiple even though the analysis you did wouldn't support it, isn't that correct?

A Correct.

Q And at the time of that presentation you -- subjective with your thought that a valuation multiple of more -- in the range of seven or eight would have been incorrect, right?

A Right, that the seven or eight, when as the question in terms of what I believed was the multiple, range of multiples at the time in March, I said that it was my estimation that the range of multiples was seven to eight and that the billion 3 value that I was coming up with was at the high end of the multiple range.

Q And similarly with respect to your terminal discount number, which you didn't even show in your March report. That was a very aggressive number that you couldn't -- support for -

-

A And that's the reason why we didn't show it.

Q Now, but you did however think that for example a EBITDA multiple in the seven to eight range would have been reasonable back in March of this year?

A An EBITDA multiple of seven to eight, yes.

Q Right. And a terminal value multiple, say one point below that, would have been reasonable for the discounted cash flow?

A Yeah.

Q And do you know what numbers those would have projected out as of March of last year?

A I -- exactly on the seven to eight multiple on a comparable on a $160 million would have been in the billion 1 to a billion 3. The discounted cash flow at a 10 percent discount rate, I believe with the same multiples adjusting for, and I can get into that in a minute if you'd like, on the projections with the assumptions underlying the projections would have come up with the same value. Okay?

The important distinction, just for clarity sake, one of the things that we also did in the discounted cash flow is we took the company's five year projection and added acquisitions that weren't contemplated nor identified in the projection, and in so doing increased the, you know, the represented EBITDA going forward.

Q That was a point I wanted to ask you about. Your first

presentation included the possibility of potential acquisitions --

A Correct.

Q -- and the most recent one does not, is that correct?

A That is correct.

Q Okay. Let me ask you this. Were you aware at the time that you prepared your August evaluation, Exhibit 1, that the committee had settled with the debtor and voted to support the Plan of Reorganization?

A Yes.

Q Did you modify any of the assumptions on multiple rates in your report to produce a report that would come up with a number that would support that decision?

MR. PEES: I'm going to object to the question -- which report is being --

BY MR. KINZEY:

Q Exhibit 1, Committee Exhibit 1.

A Exhibit 1 being the August report?

Q Yes.

A Are you asking did I adjust my numbers to match the result?

Q That's right.

A Okay, no.

MR. KINZEY: No further questions.

THE COURT: As long as that's clear. Okay. Any

further questions?

MR. PEES: Your Honor, I have just one question on redirect.

REDIRECT EXAMINATION

BY MR. PEES:

Q Mr. Hurst, when you were making the March 19th presentation to the Bank Group that had those, what you described as aggressive or exceptionally aggressive assumptions, how did you feel about that?

A I was uneasy doing it because I thought that the position that we were taking pressed what I thought were the bounds and so I was uncomfortable going in. It was a team decision. I was uncomfortable going in with that level just because people know that I understand the industry as well as just the point about the -- trying to come up with supporting the 9.5. If pressed upon during the meeting, I had a concern that I couldn't come up with, like I can now, you know, sit down, go to the companies, do the comparison and come with I believe is the 8.5. I was uncomfortable because if pressed upon in the same way during the meeting with -- negotiating meeting, I wouldn't be able to do the same with the 9.5.

MR. PEES: Thank you, Mr. Hurst.

THE COURT: Thank you, sir. You may step down. All right. Any further witnesses in support of the plan?

MR. WALSH: Your Honor, I don't believe we have any

further witnesses, but before the next witness comes on, I have to correct the record. I handed you up a copy of what I thought was the final confirmation order. Apparently there are negotiations still going out in the hall and so they'll be a final final at some point before the hearing ends, I hope. So, with that --

THE COURT: Well, that's fine. I can give you a perhaps forewarning that I will not be able to issue a decision immediately after the hearing is over. I will obligate myself to issue a decision within several days and probably will call you back to fix the time when the decision will be made. We're talking probably next week, for sure next week. But that's what I have in mind so that I can digest the information that has been submitted and give it deliberation that it deserves. So, that is my plan. So, the fact that the order is not finalized won't hold us up today.

MR. WALSH: How about if we shorten the order and take back some of the exhibits?

THE COURT: I'm very sensitive to the need for very prompt consideration and it's even possible that I would be able to -- let's see that I would be able to go through the information by Friday this week. So, if I can do that, I would certainly want to accommodate the process. Let's see where we are and how fast we can get through it.

MR. WALSH: Thank you, Your Honor.

THE COURT: Counsel?

MS. MELNIK: Thank you, Your Honor. Selinda Melnik for Charles Grimes. One question as a follow up to Mr. Walsh. Will Your Honor be entertaining post-hearing briefs --

THE COURT: No.

MS. MELNIK: -- from the parties?

THE COURT: No. I will entertain post-hearing argument. That is, you're welcome to address the issues that have been posed, but I won't hold the record open for further submissions.

MS. MELNIK: And by that are you suggesting you would entertain written argument, additional written argument, or just the argument here in Court today?

THE COURT: Just the oral arguments in Court, yes. Presumably we will finish today and so I will leave the record open for that argument today, but we'll close the record at that point.

MS. MELNIK: Thank you.

THE COURT: All right. Then can we proceed with other witnesses?

MR. PRIMPS: Your Honor, on behalf of GMS, William Primps of the firm of LeBoeuf, Lamb, Greene and MacRae. We have expert testimony in the person of Mr. Grillo to put on and sponsor the report which has been put in. But before we do that, to complete the foundation of our factual record, we have

a deposition -- excuse me. The copies of it and its associated exhibits of Mr. Joseph Lanassa of the Goldman Sachs firm whose -- in the name of both. Him and his firm has been mentioned before.

There has been negotiation among counsel as to how this document should be received. But I think before we talk about the reception of the Lanassa deposition into evidence, there does need to be some showing under the Federal Rules of Civil Procedure of his unavailability. And I wanted to say that we have diligently attempted to procure his availability at today's hearing.

Through negotiation with his counsel, the firm of Skadden Arps in New York City, as well as putting Mr. Walsh on notice, not that we're saying Mr. Walsh is in control of this witness, we were informed that he was going to be on vacation this week. My partner, Mr. Kinzey, wrote back to the Scad and Arps firm to say that a number of us have had to alter our vacation plans because of this proceeding and that in light of the equity ownership of Goldman Sachs and Mr. Lanassa's prospective position on the Board of Directors in the new company, we felt it was incumbent on him to be here.

We wanted to have Your Honor have the benefit of his testimony and of his presence.

THE COURT: Well, let me -- perhaps I can have an offer of proof even before we establish the predicate, you're

quite correct, of considering this deposition. Are there disputed facts that you would propose to establish by the use of this deposition?

MR. PRIMPS: Your Honor, we wanted the witness here because of two EBITDA numbers that have come up repeatedly. One is the $222.2 million normalized EBITDA number that's in a Goldman Sachs report that Mr. Lanassa and his assistant authored in July of this year; and another is the $230 million EBITDA number that was, I believe, has been already accepted into evidence. I mean, the document containing that in the GMS-3 exhibit that was introduced yesterday.

THE COURT: All right.

MR. STROCHAK: Your Honor, Adam Strochak from Weil Gotshal for the Genesis debtors. There really is no dispute that the witness is unavailable. He's not available to be here in Court today. Counsel had the opportunity to take his deposition 10 days or so ago at the onset of our very expedited discovery process, so we would have no objection to the introduction of the deposition for whatever they want it for in that respect. I guess -- I see a rather large stack over there, so I'm assuming that Mr. Primps would like to introduce some of the exhibits as well. I think we'd like to have an opportunity to review them. We've looked at the deposition transcript, but not quite so carefully at each separate exhibit.

So, with that I guess we would just stipulate that Your Honor could have the transcript of the deposition and read it at the Court's convenience, and Mr. Primps can make whatever arguments he likes.

THE COURT: All right. Sir?

MR. ZELMANOVITZ: Your Honor, just for the sake of -- this is Menachem Zelmanovitz, Morgan, Lewis & Bockius on behalf of the Mellon organization for the senior lenders. I would like to note for the record that Mr. Lanassa in fact agreed to move up his deposition because of his vacation plans, submitted the deposition. Throughout the deposition there was no word of his having to appear as a witness. And although I don't know when he left for vacation, it was my understanding that he was already on vacation when for the first time GMS raised the point of asking -- asked for him to be a witness at his hearing and he was no longer available for that reason.

We have told counsel for GMS that we have no objection to the entire transcript going in. And in fact, the specific EBITDA numbers that counsel is referring to were testified to during the deposition, and by the way, the source of that information as Mr. Lanassa testified, as counsel knows, was not Goldman Sachs, but it was the numbers that Goldman Sachs obtained from the company in one way or another. And as we all know, Mr. Hager testified at length about the company's EBITDA. But again, as I said, we have no objections to the

transcript going in.

THE COURT: All right. Then I guess there is no contest. Will you direct me to particular portions of the deposition or do you wish the entire deposition to be considered?

MR. PRIMPS: We designated certain portions of it, Your Honor, and then there were counter designations that Mr. Strochak proposed, and then I think Mr. Zelmanovitz was going to counter designate. But at that point, it's not that lengthy a document. It's approximately 50 pages of testimony.

THE COURT: That's fine.

MR. PRIMPS: We'll refer to it on oral argument. The one thing that I think as a matter of housekeeping that has to be done to prevent confusion, the deposition exhibits, and there were 12 of them I believe, were marked -- or no, there were 11 of them, were marked GMS 1 through 11, and we already have a number of GMS documents, and to prevent -- we'll just add 11 to each of the numbers. GMS 1 here would become GMS 12.

MR. ZELMANOVITZ: -- necessary to mark all of them as exhibits now because we'll leave the transcript exhibits together for the Court --

THE COURT: I think --

MR. PRIMPS: However Your Honor wants to --

THE COURT: I think that's fine. We can in effect mark the entire package as one exhibit so that the record is

clear, but the attachments that went along with the deposition will simply be a part of the single exhibit.

MR. PRIMPS: Would Your Honor accept then the -- or should we have it reviewed by counsel before we present it up?

MR. STROCHAK: If I could just suggest, Your Honor, so as not to delay the proceedings, perhaps we could over the lunch break take a look at the individual exhibits to the deposition. If we have any objections to those, we'll call those to the Court's attention after the lunch break

THE COURT: That's fine. No problem.

MR. PRIMPS: Thank you very much, Your Honor.

THE COURT: All right. Then we can proceed with your expert witness.

MR. PRIMPS: Thank you. At this time, Your Honor, GMS would like to call Anthony Grillo as a witness.

A N T H O N Y G R I L L O, WITNESS, SWORN

THE CLERK: Please state your name for the record, spelling your last name.

THE WITNESS: Anthony Grillo. Grillo, G-R-I-L-L-O.

DIRECT EXAMINATION

BY MR. PRIMPS:

Q Good morning, Mr. Grillo. I see it's still morning. Could you state your name and address for the record?

A Yes. Anthony Grillo, Pleasantville Road, New Vernon, New Jersey.

Q Thank you. Mr. Grillo, did there come a time when you were engaged to write a report and give testimony in this matter?

A Yes.

Q Could you state the circumstances of that request for your report and testimony?

A Yes. I received a call from Mr. Ira Reid and Mr. Tim Walsh of your law firm asking whether or not we'd be capable and interested in doing that.

Q And when you say we, are you referring to your professional firm?

A Yes, that's correct, Evercore.

Q And could you describe for the record the nature of Evercore's business?

A Surely. Evercore is a small investment bank, approximately 75 people in total, involved in four lines of business, two advisory and two principal. We have a restructuring advisory practice which I'm the head of as well, a merger and acquisition practice, and two principal groups, one of which is a leverage buy out private equity group, and the fourth is the second of the principal groups is a venture capital group as well.

Q Now, have you been engaged before to give testimony relating to restructuring or bankruptcy matters?

A Yes.

Q And could you tell the Court what those instances have been?

A The one in particular that I recall, we were representing the bondholders in a bankruptcy in Texas called -- excuse me, in Chicago entitled Envirodine (phonetic) and we were the expert witnesses in a fraudulent conveyance testimony.

Q And you were qualified and accepted as an expert in that case?

A That's correct.

Q Could you also state for the Court your educational background beginning with high school?

A Yes. Seaton Hall Prep in South Orange, New Jersey; Rutgers College, New Brunswick, New Jersey. I received a B.A. in economics and I was a Henry Rutgers scholar at Rutgers College. And I received my Master Degree at the Wharton School, an M.B.A. in finance.

Q And upon your graduation from the Wharton School, could you sketch out for the Court your professional experience?

A Yes. For the first several years I was a certified public accountant with the firm of Coopers and Lybrand in New Jersey, and thereafter started a 20 year period of working with restructuring companies, starting initially as a bank officer for Manufacturers Hanover Trust Company and acting as an advisor and cofounder of the advisory group of Blackstone in 1991 for approximately 8 years. Most recently I just commenced

starting a restructuring group for the Evercore firm.

Q And could you describe the restructuring practice of the Blackstone Group that you were involved in?

A The restructuring practice was one in which we advised companies and their creditors when each were having discussions or negotiations regarding troubled companies and the like.

Q How large was that practice?

A Well, it started out as two individuals. Arthur Newman and myself started that practice in 1991 and when I left had about 25 people. It is considered one of the top practices on Wall Street.

Q Now, the report that you produced after your discussions with Mr. Walsh and Mr. Reid of my firm, that has already been marked as GMS-8 during the testimony of Mr. Schulte. I'd like to hand you a bound copy of that. Perhaps Your Honor would like the fancier version? It may be easier to read.

THE COURT: All right. Thank you.

MR. WALSH: Bill, could we have a fancy one too?

MR. PRIMPS: Sure.

BY MR. PRIMPS:

Q Mr. Grillo, I've just handed you an original bound version of the document that previously has been marked as GMS-8 and I'd like you to describe to the Court what you and your firm did in preparing this report.

A Well, as I indicated, we had been asked by GMS to look at

what's happened in the long term care sector in particular, and in particular what's happened in the sectors that Genesis is competing in, both long term care and the institutional pharmacy business. So, we looked at the public companies that competed in those arenas and we assessed their activity and their comparability to the underlying businesses of Genesis.

Q And were you assisted by other professionals in your firm in preparing this report?

A Yes.

Q And who were those professionals?

A John Fitzsimmons, Sam Banerge (phonetic), Chris Albergo (phonetic) and Philipe Oguidi (phonetic).

MR. PRIMPS: Your Honor, at this time I would proffer Mr. Grillo as an expert in restructuring and company valuations in bankruptcy.

MS. GUERRERA: Your Honor, Jo Guerrera for Weil, Gotshal and Manges for the Genesis debtors. We have no objection to Mr. Grillo being qualified as an expert or we have no objection to the admission of his report, however, we do reserve the right to question Mr. Grillo on what we view is his lack of experience in the healthcare industry in particular.

THE COURT: Noted.

MR. PRIMPS: That will be reserved for cross-examination, Your Honor.

THE COURT: All right. Mr. Grillo is welcome to

testify.

MR. PRIMPS: Thank you.

BY MR. PRIMPS:

Q Mr. Grillo, I think probably the best way to present the information in your report to the Court is to start at the beginning and touch upon the background and your overview of the long term care and pharmaceutical businesses. Could you speak to that section of your report?

A Surely. Your Honor, if you would, I'd ask you to look to page 8. That might be helpful. One of the first things we did was to look at what happened over the recent past in the long term care market as well as the institutional pharmacy market, and I think it's, other than Mr. Schulte having a more expanded universe, I think all of the financial advisors in this case were relatively consistent in their use and consideration of the comparables on the long term care side, and those were Kindred, Manor Care and Beverly. And we looked at those companies and their stock price over the last four months and we used the April 1 time frame as a reasonable time to start looking at those companies, and on average, those companies increased quite dramatically over that period of time. Kindred in particular increased the most. They had just come out of bankruptcy. Their stock price at initial inception of the bankruptcy completion was in the $20 per share range. That share price now is around $58 a share.

There clearly was a significant uptake in the value of that enterprise over that period of time. But apart from the increase for that company, as well, the other long term care companies increased in value very dramatically. And over that four month period, on average, those companies increased by about 100 percent. They on average increased that significantly.

Q If I could just stop you for a moment. You referred to page 8 of your report and this approximate 100 percent increase in the period starting in April. That's depicted in the chart on the upper left portion of that page?

A That's correct. And we characterize that as a long term care and we footnote as it the Beverly Manor Care and Kindred Care composite. We included -- those are -- averages. They are not weighted averages. But they are meant not in a statistical way to provide particular guidance to the Court. It is more of an indication of what happened in this market place over that period of time. I would dare say none of the financial advisors could have, would have, might have expected those kinds of increases over the four months, but they did in fact happen.

In addition we looked at the pharma -- in effect the pharma industry. That really is a, unfortunately, a one company sort of comparison. It is Omnicare. That increased much more modestly. That increased, we believe, around 12

percent over that period.

Q And that's the line below the LTC on that same charge, just on the left corner?

A That's correct. And the box on the upper right corner which shows a composite is an attempt by us to look at what the increase might have been if you presume that the valuation for Genesis should be weighed at 60 percent long term care, 40 percent institutional pharmacy because the EBITDA's are generally in that ratio.

Q And if you do weight in that percentage or in that proportion, you don't get the 100 percent run up that you get in the other chart. What's the run up that you get --

A It's about 65 percent gain over that period. So, this sheet, Your Honor, is meant to give a background to the discussion of the extent and manner in which the market's changed since April 1.

Q And you did try, did you not, in your report to give background and reasons for this market run up some of the points that are raised --

A Yes, we did. We talked about the fact that the markets are strong for healthcare, that parties are interested and investors are quite interested in the healthcare market today. It is viewed as a much more promising area of investment than it was over the last couple of years and it's much more promising than some other sectors of the market generally.

Q Excuse me. After you looked at these comparables and you looked at these market trends, what did you do next in your analysis?

A Well, we looked again -- for a background we just -- we wanted to see what happened to the EBITDA multiples over that period of time as well. Your Honor, looking at a stock price from a point in time to another is a first level analysis. The second level analysis is to look at what actually happened to the multiples of those companies over that period of time because earnings of those companies would have or could have changed over that period of time. In these cases, they in fact did. The earnings capacity of each of the comparables improved over that period of time. So, the EBITDA multiple is not -- the increase in the EBITDA multiple should not be and was not as great as the raw stock price increase over that period of time.

And pages 12 through 15 are our attempt to look at the comparables that were used by the financial advisors for Genesis and Multicare and identify what happened to their EBITDA multiples over that four month period. And for instance, Your Honor, I'll just direct your attention to page 13 as an example. What we attempted to do on this sheet is to look at the comparable companies that -- used in their analysis and at the time when they did their first analysis, I don't believe they used Kindred. I don't believe it was available

for an analysis or to be incorporated at that time.

The original, which is the lower half of the chart, Your Honor, it says comparable trading analysis as of 4/6/01, when Your Honor looks at the EBITDA multiples on a projected 2001 basis at that time, one would have calculated on a pure arithmetic basis that the average of those multiples was approximately 8 percent.

Looking at it at the current time, which the date of this analysis is April -- excuse me, August 22nd, when you look at that analysis based upon projected 2001, the multiple at that time, the more recent time, is 9.9 times, 9.9 times, the arithmetic average.

Again, this is not meant to be a statistical analysis, but over that period of time it does provide an indication that the multiples increased by approximately 1.9 times, which depending upon which EBITDA dollar amount one uses, implies that the value of the enterprise of Genesis, the combined enterprise of Genesis, would have increased by approximately $400 million over that period of time, if you believe that they are reasonably comparable to each other.

Q Now, in terms of these comparable multiples, were there other things that you did to check the validity of the EBITDA multiple increase of 1.9?

A Well, we looked at the -- we looked at the most recent and the more recent research reports for each of the companies and

identified what the research reports and what the analyst generally viewed as the most recent and most reasonable EBITDA forecast for those companies. So what happened over the time is as things improved in the healthcare sector generally and as earnings increased, parties, analysis, took that into account, increased their EBITDA's raw dollar amount and therefore increased some of their estimates of earnings per share. That caused parties to be potentially more interested in the stock. That in fact, we believe, caused some of the value -- the stock price run up.

Q How did you use then this analysis of the increase in multiples in your valuation analysis?

A Well, we then did a separate and distinct. Those charts, which I indicated to the Court, were meant to be representative of value increases over a very short period of time for these markets. We then looked at -- we looked at the -- we basically did the same kind of analysis that many of your other parties looked at. Your Honor, you've heard from four individual financial advisors who have spoken to the fact of looking at at least three, Mr. Schulte used four methodologies, but three methodologies were consistently used to comparable company analysis to discounted cash flow analysis and the transaction analysis. We used three as well, and we eliminated the transaction analysis as well because we believe that the period of time that was covered for any transaction is not an

appropriately comparable period given the changes in the reimbursement rates and the changes in fundamental business from then to now. So, we looked at comparable company analysis and we did a discounted cash flow as well.

Q And where are the results of that analysis? Where do they appear in your report?

A Well, we have on page 20, we have a valuation based upon our EBITDA and EBITDAR analysis. The range of value we concluded for the EBITDA analysis is 1 billion 881 to -- excuse me, $2.3 billion. And the EBITDAR analysis is 1 billion 881 to $2.342 billion.

Q And what do you do with those two ranges then to further your analysis and valuation of these companies?

A Well, we performed the discounted cash flow analysis and we did it in quite the same way as most of the other financial analysts advisors did as well. We did, however, make a couple of changes that the Court should be aware of. We -- when we looked at these analysis, Your Honor, we've taken into account and we should step back a second. Clearly the issue of what the EBITDA for the current period is a relevant issue.

There has been material testimony regarding 214, 222, 230 and other numbers. We attempted to estimate what the true earnings capacity of this business is today. And when we looked at our comparable multiples, we used a 2001 multiple for each of those companies. And Your Honor, the dates are

relatively important just to get the subtleties of this because none of the other experts speak to the need to be comparable. Those multiples are for a 12/31/01 date for the comparables.

We chose a $220 million earnings capacity for Genesis combined, and we did that looking at several pieces of information. We looked at the latest quarter which had a 55 -- approximately a $55 million EBITDA number annualized. That gets you to about $220 million. We looked at the 214 in the company's plan and we also took into account some of the Houlihan analysis that were helpful in identifying the company, Genesis side being ahead of the plan by about $4 million for the three-quarter period, which if you annualized that would get you closer to a number that when added to the 214 gets you to 220.

We looked at the -- we looked at the company's forecast for EBITDA in the third quarter fiscal -- excuse me, the third quarter of fiscal 2001, which we believe is in the mid-50's as well, annualized is a $220 million number. We looked at the three quarters forecasted for fiscal year 2001 and then we took into account that if you used the December quarter into 2001, which is actually in fiscal 2002, and you take into account the improvement in the business from 2001 to 2002, that is likely -- that's estimated to be in the $5 million range, and as a result of that, when you add the 5 million to the 214, you get for a calender year 2001 around

220.

So, absent our ability to be inside the company, and unfortunately I haven't had the pleasure of having as many conversations with the company which I would have loved to do, as some of the other advisors, we've taken as best as we could analytical approaches to try to come to a, I'll call it triangulation of what the earnings capacity is.

Using the 220, now back to our original commentary, using the 220 we then did a discounted cash flow using that as the basis.

Q And where does that analysis appear in your report?

A That is on page 23.

Q And what is the result of the discounted cash flow analysis using the $220 million earning capacity of the company?

A We estimate that the value lies between 1 billion 889 and 2 billion 147. Those are the lowest and the outermost -- the highest values under a weighted average cost of capital of 9 to 10 percent and an exit multiple in the 8-1/2 -- excuse me, 8-3/4 to 9-3/4 range.

Q And where do those appear on page 23? Can you direct the Court?

A Those are in the lower black box which are included for your review.

Q And how does the discounted cash flow analysis valuation

of the company compare with the comparable trading analysis?

A It is somewhat lower.

Q Can you continue in telling the Court how you came to a conclusion in reconciling the numbers given by the discounted cash flow and the comparables?

A Sure, I'll do my best. One of the things which the Court has heard over and over again and it is quite a difficult analysis to do, is that what we have before us is mathematics and most of us learn the mathematics that are needed for this business quite early in our careers. And the mathematics is crucial and important and you do the best job you possibly can with the mathematics and the statistics.

But one thing that hasn't been brought up in this, you know, discussion today, at least I don't believe it is, is a point that I think is relevant. The advisors all have historically conceded I think, maybe conceded is wrong word, argued, articulated, that they believed there's really no question that the company is comparable to Beverly. And I think that folks might challenge whether or not we believe Genesis is comparable to Manor Care. And in our comparables we use a multiple that's between Beverly and Manor Care, and there's some challenge as to whether or not that's appropriate given the star like quality of Manor Care.

Your Honor, I'd like to try to articulate as best I can the difference between a permanently different earnings

capacity of a company and a temporarily different earnings capacity of a company and it is a subtle point, but believe me, in my prior experience when we buy companies, if we did -- whether we did it the right way or the wrong way, made mistakes, made money, you always looked at whether or not the company you're buying is permanently disadvantaged to the comparable company.

And one of the things which the parties before us have indicated is that Beverly is a comparable, and I readily admitted that Beverly is a comparable, and to some extent it has a, you know, less advantageous payor mix, but -- let us for argument sake stipulate that Beverly from a payor mix is comparable.

All of the advisers have indicated that the earnings rate for Beverly is much higher than Genesis, and by virtue of that, Genesis should be worth less. It is as if the less you earn, the less you're worth. Well, I know this will sound obviously different than many of the other folks, but in fact, if a company is earning less because of a temporary reason, a reason that can be rectified, a reason that can be fixed, something that can be improved over time, parties will pay more for that. Parties will pay a higher multiple for that than they would otherwise pay because they expect improvements to occur over time.

And while I haven't had a lot of time to go visit,

and I wish I could have visited some of these facilities, it does not appear from my standpoint that the Genesis basket of assets is so permanently disadvantaged. They are primarily, to my understanding, on the east coast. Beverly has a whole basket of assets in central United States that are earning much less of EBITDA and EBITDAR than the others.

So, we articulate an argument that says Genesis over time will not stay as a permanently disadvantaged company versus Beverly. All of the parties have indicated on the long term care side that Genesis has been earning 8 - 9 percent of revenue in EBITDA -- in EBITDAR. The Beverly company earns 12 to 13 percent. Arguably we believe that that 2 percent to 3 percent over time will be mitigated. It will be mitigated because management won't stay in the same place it was. It will be mitigated because the Board of Directors is coming on and they believe they will do a good job and attempt to improve things.

We think that that mitigation is a reason why the market place may and will value this company slightly higher than what people would eyeball judgment wise the multiple to be. And that's how we concluded that the valuation was more in the middle of the range of Beverly to Manor Care than at the Manor -- excuse me, at the Beverly level.

Q How long will that mitigation process take in your opinion?

A I do not know. I think that that mitigation process is not a short term process. It is not a one year process. It is likely to happen over several years. Two to three years is my best guess if I were to have to make a guess.
Q But it's your testimony that the market place will take that mitigation process into effect in the valuation of a new company?
A It is my testimony that the market place will judge whether or not the difference is a permanently impaired, a permanent difference, and I don't believe that based upon what I know with regard to Beverly and Genesis that it should be a permanent difference.
Q Now, is there a place in your report where you come to a, let's say bottom line figure where the analysis both under the discounted cash flow and in comparables is melted together into your company's best estimate of the enterprise value of Genesis and Multicare?
A Yes. On page 10 we identify the, sort of the outermost ranges or end points of the range of our valuation, and that is between 1.9 billion and 2.250.
Q And just so the Court can have the sort of benchmarks for how that is developed, now each of the Evercore valuations, be they low, mid or high, is based on the $220 million EBITDA number, is that correct?
A That's correct.

Q And then you're applying the multiples that appear in the far right hand column there on page 10?

A Well, that's the applied multiple if you -- if you look at the underlying analysis, we have ranges that are the end result of the mathematics and the judgment that we've used, and these are the judgments of all of that composite work.

Q And how does that -- the highest multiple then that's implied out of these valuations is 9.4, is that correct?

A That is correct.

Q How does that compare with Manor Care's EBITDA multiple to your knowledge?

A Well, it's beneath Manor Care by approximately one, more than one actually.

Q Now, I'd like to turn from your valuation summary and ask you some questions about how you've applied that valuation summary to the creditor recovery analysis. Is there anything more you want to say in terms of describing the valuation work and analysis that you and your firm have done?

A I don't believe so.

Q Okay. The creditor recovery analysis appears, does it not, the first substantive part of that, at page 25 of your report? Do you see that?

A Yes, that's correct.

Q And could you describe to the Court how you arrived at this analysis?